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10/599,964	10/16/2006	Markus Roth	A8647PCT-UT	7420
43749 7590 05/19/2009 CHRISTOPHER PARADIES, PH.D. FOWLER WHITE BOGGS BANKER, P.A. 501 E KENNEDY BLVD, STE. 1900 TAMPA, FL 33602				
EXAMINER				
GARCIA, ERNESTO				
ART UNIT		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/599,964

Applicant(s)

ROTH ET AL.

Examiner

ERNESTO GARCIA

Art Unit

3679

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 January 2009 and 29 September 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☒ Claim(s) 6 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 January 2009 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Drawings

The drawings were received on January 28, 2009. These drawings are accepted. However, the drawing changes introduce new drawing objections.

The drawings are objected to because the current cross-hatching used for the receiver 5 in Figure 1, 4, and 5 makes unclear to what material the cross-hatching corresponds. Note that MPEP 608.02(IX) provides the proper cross-hatching that corresponds to an elastically deformable soft material. The current cross-hatching appears to rather correspond to a magnetic coil or a magnetic material. Further, the cross-sectional view in Figure 3 is not a proper representation of the plane III-III. In particular, since the cross-sectional plane passes through the center of the receiver 5, the cross-section of the receiver is missing in Figure 3. Further, it is unclear why half of the flange 51 of the receiver 5 in Figure 1 is shown with different cross-hatching. Is half of the flange 51 made of metal and the other half with a different material? The recess 53 and the remainder of the pin 55 are missing in Figure 2. Further, why is the cross-hatching of the anchorage in Figure 3 different than that shown in Figure 1? The same

cross-hatching should be used for the same anchorage. Furthermore, it is unclear how reference character "36" is actually a path of application as described in paragraph [021] when the lead line of reference character "36" actually points to an actual part rather than a path. The examiner has noticed that part 36 is of a different size between Figures 1 and 5. Is Figure 5 showing another sized part 36 than that shown in Figures 1 and 2?

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "32" and "51" have both been used to designate the same support flange in Figure 2.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended". If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct

any portion of the drawing figures. If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: "an insertion pin is held on the holder" recited in claim 1, lines 4-5, and "the insertion pin has a trunnion portion" recited in claim 1, line 8.

The disclosure is objected to because of the following informalities:

The description of reference character "3" on paragraph [022] is inconsistent. Appropriate correction is required.

Claim Objections

Claims 1-10 are objected to because of the following informalities:

regarding claims 1-10, the description of the claimed parts do not corresponds to those found in the detail description of the invention thus making difficult to follow what parts correspond to what. For instance, the holder in claim 1, line 4, has been described on paragraph [022] as feature "3" yet it seems that the holder in the claim

should actually be the retainer 4 as the holder 3 is actually at the bottom and not holding the insertion pin as described on the claim;

regarding claim 1, "holder" in lines 4 and 5 should be --retainer--;

regarding claim 4, "holder" in line 2 should be --retainer-- and "by" in line 2 should be --with--;

regarding claim 5, "holder" in line 3 should be --retainer--; and,

regarding claim 6, "by" in line 2 should be --with--. Appropriate correction is required. For purposes of examining the instant invention, the examiner has assumed these corrections have been made.

Claim Rejections - 35 USC § 112

Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the recitation "an insertion pin is held on the holder" in lines 4-5 is misdescriptive and/or inaccurate since the insertion pin 6 is not held on the holder 3 but rather on the receiver 5. For purposes of this Office action, the examiner has assumed the holder is actually the retainer 4 as described on the detail description.

The recitation "capable of coupling with the such" in lines 12-13 is either incomplete or grammatically incorrect. The recitation "and is adjustably held" in line 14 makes unclear where the support flange is actually held. Further, the recitation "when the insertion pin activates the locking means" lines 16-17 makes unclear what this is structurally defining. This appears to be a condition. Note that patentability is based on the structural recitations being present and not on conditional statements that define conditions in the future.

Claim element "locking means" is a means plus function limitation that invokes 35 U.S.C. 112, sixth paragraph. However, the written description fails to clearly link or associate the disclosed structure to the claimed function such that one of ordinary skill in the art would recognize what structure performs the claimed function. Note that nowhere in the specification does the disclosure mention "a locking means" or what the locking means is comprised of. Further, assuming the locking means is the device "35" how does 35 by itself perform the locking? Isn't there supposed to be hydraulic fluid for the hydraulic device 35 to operate? Part 35 appears to be a piston but it is unclear from the disclosure how the device 35 actually exerts a force or when the device is actually a mechanical mechanism.

Applicant is required to:

(a) Amend the claim so that the claim limitation will no longer be a means (or step) plus function limitation under 35 U.S.C. 112, sixth paragraph; or

(b) Amend the written description of the specification such that it clearly links or associates the corresponding structure to the claimed function without introducing any new matter (35 U.S.C. 132(a)); or

(c) State on the record where the corresponding structure is set forth in the written description of the specification that perform the claimed function. For more information, see 37 CFR 1.75(d) and MPEP §§ 608.01(o) and 2181.

Regarding claim 2, the recitation "when the insertion pin is snapped into an attachment position of the receiver" lines 5-6 makes unclear what this is structurally defining. This appears to be a condition. Note that patentability is based on the structural recitations being present and not on conditional statements that define conditions in the future or conditions on components that are not claimed, i.e., the receiver.

Regarding claim 4, the metes and bounds of the claim is unclear. In particular, how does a screw thread actually couple the insertion pin 6 to the holder 3? Isn't the insertion pin 6 actually coupled to the receiver 5 instead by a snap connection?

Further, claim element "screw thread means" is a means plus function limitation that invokes 35 U.S.C. 112, sixth paragraph. However, the written description fails to clearly link or associate the disclosed structure to the claimed function such that one of ordinary skill in the art would recognize what structure performs the claimed function.

Note that nowhere in the specification does the disclosure mention "a screw thread means" or what the screw thread means is comprised of. Further, assuming the screw thread means is a thread how does a thread couple the insertion pin 6 to the holder 4 (i.e., the retainer) without reciting the anchorage part 42.

Applicant is required to:

- (a) Amend the claim so that the claim limitation will no longer be a means (or step) plus function limitation under 35 U.S.C. 112, sixth paragraph; or
- (b) Amend the written description of the specification such that it clearly links or associates the corresponding structure to the claimed function without introducing any new matter (35 U.S.C. 132(a)); or
- (c) State on the record where the corresponding structure is set forth in the written description of the specification that perform the claimed function. For more information, see 37 CFR 1.75(d) and MPEP §§ 608.01(o) and 2181.

Regarding claim 7, the metes and bounds of the claim is unclear. In particular, it is unclear how limiting the retainer of the supporting structure as having a retention plate further limits the connection element when the retainer is not claimed as part of the claimed connection element. Note that the preamble of claim 1 indicates that the connection element is "for attaching a planiform or dish-shaped component to a supporting structure having a retainer mounted thereon". Thus the component and the

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supporting structure with its retainer are not claimed. Further, how does the recitation "the support flange of the receiver is capable of being retained by the retention plate" in lines 2-3 further limiting the connection element. Note that this claim does not set forth any structure of the connection element and capabilities do not define structure.

Regarding claim 8, the recitation "the upright anchorage" in line 3 lacks proper antecedent basis.

Regarding claims 2, 3, and 5-10, the claims depend from claim 1 and therefore are indefinite.

Claim Rejections - 35 USC § 102

Claims 1, 2, 7, and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by anticipated by Krauss, DE-10,053,200.

Regarding claim 1, as best understood, Krauss discloses, in Figure 1, a connection element comprising a retainer **14** (i.e., the holder), a receiver **12**, and an insertion pin **16**. The insertion pin **16** is held by the retainer **14** and the insertion pin **16** is adjustable in at least a Z-translational direction. The insertion pin **16** mates to the receiver **12**. The insertion pin **16** has a trunnion portion **28**. The receiver **12** is of an elastically deformable soft material and has a first recess **22**. The first recess **22** is

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contoured providing a snap connection between the receiver **12** and the insertion pin **16**. The receiver **12** includes a support flange **15**. The connection element further comprises a locking means **19** for locking the support flange **15**. Note that the flange **15** is capable of coupling.

Regarding claim 2, the locking means **19** comprises a mechanical mechanism **19**.

Regarding claim 7, the retainer **21** includes a retention plate **21** and the support flange **15** is capable of being retained by the retention plate **21**.

Regarding claim 10, the locking device **32, 52, 54** includes an intermediate pin **54**. Note that that intermediate pin **54**, when inserted in the first recess contacts the insertion pin **16** such that the intermediate pin firmly clamps the support flange within the retainer.

Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by anticipated by Savage, 4,375,864.

Regarding claim 1, as best understood, Savage discloses, in Figure 7, a connection element comprising a retainer **72** (i.e., the holder), a receiver **38**, and an insertion pin **66**. The insertion pin **66** is held by the retainer **72** and the insertion pin **66**

is adjustable in at least a Z-translational direction (see Figure 9). The insertion pin **66** mates to the receiver **38**. The insertion pin **66** has a trunnion portion **106**. The receiver **38** is of an elastically deformable soft material and has a first recess **55**. The first recess **55** is contoured providing a snap connection between the receiver **38** and the insertion pin **66**. The receiver **38** includes a support flange **29**. The connection element further comprises a locking means **22** for locking the support flange **29**. Note that the flange **29** is capable of coupling.

Regarding claim 3, the receiver **38** further comprises a second contoured recess **52**. The second recess being disposed at a distance from the first recess **55**.

Claims 1 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by anticipated by Klinger, 5,275,443.

Regarding claim 1, as best understood, Klinger discloses, in Figures 1 and 3, a connection element comprising a retainer **14**, a receiver **90**, and an insertion pin **30**. The insertion pin **24** is held by the retainer **14** and the insertion pin **30** is adjustable in at least a Z-translational direction (adjustable to snap in). The insertion pin **30** mates to the receiver **90**. The insertion pin **30** has a trunnion portion **60**. The receiver **90** is of an elastically deformable soft material and has a first recess (recess between 92 and 88). The first recess is contoured providing a snap connection between the receiver **90** and the insertion pin **30**. The receiver **14** includes a support flange **88**. The connection

element further comprises a locking means **68** for locking the support flange **88**. Note that the flange **88** is capable of coupling.

Regarding claim 8, the connection element further comprising a U-shaped clamp **18** and the receiver **90** includes at least one anchorage **92** (note that this claim is such of broad scope that the claim does not recite the clamp being clamped with the anchorage).

Claim Rejections - 35 USC § 103

Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Krauss, DE-10,053,200.

Regarding claim 4, Krauss, as discussed, fails to disclose the insertion pin **16** having a screw thread. Applicant is reminded that changing the connection between the insertion pin and the retainer (i.e., the holder) is an obvious modification. In particular, it is well established to use a thread over teeth **32, 52** to provide adjustability. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to change the teeth **32, 52** with a thread to provide attachment to the retainer (i.e., the holder) by rotation.

Regarding claim 5, Krauss, as discussed, disclose an anchorage part **44** coupled to the insertion pin **16**. However, Krauss fails to disclose the anchorage part **44** having a screw thread. Applicant is reminded that changing the connection between the insertion pin and the anchorage part **44** is an obvious modification. In particular, it is well established to use a thread over teeth **32, 52** to provide adjustability or connection. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to change the teeth **32, 52** with a screw thread to provide attachment to the retainer (i.e., the holder) by rotation.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Krauss, DE-10,053,200, in view of Bertram et al., 7,168,879.

Regarding claim 9, Krauss, as discussed, fails to disclose the soft material being an elastomer. Bertram et al. teach in column 1, lines 27-29, a soft material being made of an elastomer, i.e., rubber, as a female coupling part to perform vibrational compensating movements (col. 1, line 66 - col. 2, line 2). Therefore, as taught by Bertram et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the soft material being an elastomer to absorb vibrational movements.

Allowable Subject Matter

Claim 6 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

regarding claim 6, assuming the anchorage part includes a thread and the locking means is the hydraulic device disclosed in the specification, then the prior art of record does not disclose or suggest a connection element comprising an insertion pin coupled with the anchorage part with a ball joint (lines 1-2) in combination with an insertion pin having a trunnion portion providing a snap connection between an elastically deformable soft receiver and the insertion pin (claim 1, lines 9-11), the receiver including a support flange (claim 1, line 12), and a locking means for locking the support flange (claim 1, line 16). The closest prior art, Krauss, DE-10,053,200, instead suggests using a snap fit connection using cylindrical snap teeth 29. There's no motivation to make the snap teeth into a ball-joint. Further, rearranging the components such that feature 15 is considered a trunnion in the insertion pin that can snap into a receiver 21 would not suggest the remaining features.

Response to Arguments

Applicant's arguments filed September 29, 2008 have been fully considered but they are not persuasive. In particular, note the 35 USC 112, 2nd paragraph, rejections.

Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. Further, applicant's arguments do not comply with 37 CFR 1.111 because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections. Applicants point to paragraph [0007] but rejected claims do not mention anything about a snap in causing attachment of the receiver. Further, applicant should note that patentability is based on what the claim recites and not what the specification discloses. Further, it should be noted that patentability is based on the structural differences and not what the connection element does or how the connection element operates.

Applicant argues, against claims 4 and 5, that there is no reason to modify the teachings of Krause to use as screw thread. In response, is applicant alleging that a screw thread is novel and had never existed versus other types of connections? It

should be noted that screw thread per se is notoriously old and well-known, and changing the connection to a screw thread from a snap-in connection is simply an obvious modification well-within the expected level of skill of one of ordinary skill in the art.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. In particular, the deleted limitation "coupled to" in claim 1, lines 4 and 7, broadens the scope of the claims as the claims are no longer drawn to the combination. Further, the new recitations "being capable of coupling with" in claim 1, lines 4 and 7, "and a locking means for locking the support flange within the retainer mounted on the structure, when the insertion pin activates the locking means" in claim 1, lines 15-17, necessitated the new grounds of rejection. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ernesto Garcia whose telephone number is 571-272-7083. The examiner can normally be reached from 9:30AM-6:00PM. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached at 571-272-7087.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/E. G./

Examiner, Art Unit 3679

May 19, 2009

/Daniel P. Stodola/
Supervisory Patent Examiner, Art Unit 3679